

PEARSON, J.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

MATTHEW A. SMITH,)	CASE NO. 4:14CV2360
Plaintiff,)	JUDGE BENITA Y. PEARSON
v.)	
UNITED PARCEL SERVICE, INC.,)	<u>MEMORANDUM OF OPINION</u>
Defendant.)	<u>AND ORDER</u>
)	[Resolving ECF No. 2]

Pro Se Plaintiff Matthew A. Smith filed this *in forma pauperis* action against United Parcel Service. The Complaint ([ECF No. 1](#)) is unclear, but after careful study, it appears that Plaintiff alleges that Defendant breached an employment contract with him and that he was wrongfully terminated.

Although *pro se* pleadings are liberally construed, [*Boag v. MacDougall*, 454 U.S. 364, 365 \(1982\)](#) (per curiam), the district court is required to dismiss an *in forma pauperis* action under [28 U.S.C. § 1915\(e\)](#) if it fails to state a claim upon which relief can be granted, or if it lacks an arguable basis in law or fact.¹ [*Neitzke v. Williams*, 490 U.S. 319, 324 \(1989\)](#); [*Hill v. Lappin*, 630 F.3d 468, 470-71 \(6th Cir. 2010\)](#).

¹ A claim may be dismissed *sua sponte*, without prior notice to the plaintiff and without service of process on the defendant, if the court explicitly states that it is invoking [section 1915\(e\)](#) [formerly 28 U.S.C. § 1915(d)] and is dismissing the claim for one of the reasons set forth in the statute. [*Chase Manhattan Mortg. Corp. v. Smith*, 507 F.3d 910, 915 \(6th Cir. 2007\)](#); [*Gibson v. R.G. Smith Co.*, 915 F.2d 260, 261 \(6th Cir. 1990\)](#); [*Harris v. Johnson*, 784 F.2d 222, 224 \(6th Cir. 1986\)](#).

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A cause of action fails to state a claim upon which relief may be granted when it lacks “plausibility in th[e] complaint.” *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 564 (2007). A pleading must contain a “short and plain statement of the claim showing that the pleader is entitled to relief.” *Ashcroft v. Iqbal*, 556 U.S. 662, 677-78 (2009) (quoting *Fed. R. Civ. P.* 8(a)(2)). The factual allegations in the pleading must be sufficient to raise the right to relief above the speculative level on the assumption that all the allegations in the complaint are true. *Twombly*, 550 U.S. at 555. Plaintiff is not required to include detailed factual allegations, but must provide more than “an unadorned, the-defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A pleading that offers legal conclusions or a simple recitation of the elements of a cause of action will not meet this pleading standard. *Id.*

Even construing the Complaint ([ECF No. 1](#)) liberally in a light most favorable to Plaintiff, *Brand v. Motley*, 526 F.3d 921, 924 (6th Cir. 2008), it does not contain allegations reasonably suggesting he might have a valid federal claim against the named defendant. *See, Lillard v. Shelby County Bd. of Educ.*, 76 F.3d 716, 726 (6th Cir. 1996) (court not required to accept summary allegations or unwarranted legal conclusions in determining whether complaint states a claim for relief). Furthermore, this plaintiff has repeatedly filed similar actions in federal courts throughout the country. *See, e.g., Smith v. United Parcel Service*, No. 2:14-cv-422-JDL, [2015 WL 438917](#) (D.Maine Feb. 2, 2015) (citing numerous frivolous lawsuits filed by Plaintiff against United Parcel Service). He is, therefore, forewarned that his filing of any more frivolous lawsuits may result in an order enjoining him from further filings without leave of court. *Filipas v. Lemons*, 835 F.2d 1145 (6th Cir. 1987); *Wrenn v. Vanderbilt Univ. Hosp.*, Nos. 94-5453, 94-

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5593, 1995 WL 111480, at *3 (6th Cir. March 15, 1995) (authorizing a court to enjoin harassing litigation under its inherent authority and the All Writs Act, 28 U.S.C. § 1651(a) (citations omitted)).

Accordingly, the motion to proceed *in forma pauperis* ([ECF No. 2](#)) is granted, and this action is dismissed pursuant to [28 U.S.C. § 1915\(e\)](#). The Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

May 29, 2015
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge